

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

DEWEY LEE EUBANKS,

Plaintiff,

v.

Case No: 2:21-cv-279-JLB-MRM

COMMISSIONER OF SOCIAL SECURITY  
and U.S. ATTORNEY,

Defendants.

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**ORDER**

The Magistrate Judge has entered a Report and Recommendation, recommending that the Commissioner's Unopposed Motion for Entry of Judgment with Remand (Doc. 21) be granted. (Doc. 22.) No party has objected and the time to do so has expired.

A district judge may accept, reject, or modify a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1). In the absence of objections, a district judge is not required to review the factual findings in the report de novo, but legal conclusions are reviewed de novo even without an objection. Id.; Cooper-Houston v. S. Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993).

After an independent review of the record, and noting the lack of any objection, the Court agrees with the well reasoned Report and Recommendation.


Accordingly, it is **ORDERED**:

1. The Report and Recommendation (Doc. 22) is **ADOPTED** and made a part of this Order for all purposes.
2. The Commissioner's Unopposed Motion for Entry of Judgment with Remand (Doc. 21) is **GRANTED**.
3. The decision of the Commissioner is **REVERSED** and this case is **REMANDED** under sentence four of 42 U.S.C. § 405(g) for further administrative action and proceedings as follows:

Upon remand, the Appeals Council will (1) offer the claimant the opportunity for a new hearing; (2) instruct the Administrative Law Judge to seek supplemental vocational expert evidence to determine whether there are a significant number of jobs in the national economy that the claimant can perform; before relying on the vocational expert evidence, identify and resolve any conflicts between the occupational evidence provided by the vocational expert and information in the Dictionary of Occupational Titles (DOT) (Social Security Ruling 00-4p); and (3) issue a new decision.

4. Plaintiff is instructed that any application for fees, costs, or expenses must comply with the Court's Standing Order on Management of Social Security Cases, In re Administrative Orders of the Chief Judge, No. 3:21-mc-1-TJC, Doc. 43 (Dec. 7, 2021).
5. The Clerk is **DIRECTED** to enter judgment accordingly, terminate any pending motions and deadlines, and close the file.

**ORDERED** at Fort Myers, Florida, on February 7, 2022.

  
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**JOHN L. BADALAMENTI**  
UNITED STATES DISTRICT JUDGE